



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2867

DATE SCANNED 5/7/15

SCANNER NO. 2

SCAN OPERATOR JB



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2014 DEC 10 AM 10:54
FEDERAL ELECTION COMMISSION
SECRETARIAT

December 9, 2014

SENSITIVE

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *APCO*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Debbie Chacona *DC MYI*
Assistant Staff Director
Reports Analysis Division

BY: Kristin D. Roser/Sari Pickeral *KDR*
Reports Analysis Division
Compliance Branch

SUBJECT: Reason To Believe Recommendation - 2014 October Quarterly Report
(Election Sensitive) for the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file the 2014 October Quarterly Report in accordance with 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)). The 2014 October Quarterly Report was due on October 15, 2014.

Under the Administrative Fine Program, the October Quarterly Report is considered an election-sensitive filing for authorized committees supporting candidates involved in the general election as well as all unauthorized committees. For the committees listed on the attached RTB Circulation Report, the October Quarterly Report was an election-sensitive filing. The committees either filed the report after the due date, failed to file the report or failed to file the report prior to four (4) days before the general election (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR. 111.43, these committees should be assessed the civil money penalties included on the attached report.

Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)) and make a

preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.

2. Send the appropriate letters.

Federal Election Commission
Reason to Believe Circulation Report
2014 OCTOBER QUARTERLY Election Sensitive 10/15/2014 H_S_P_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2867	C00165803	BUNCOMBE COUNTY REPUBLICAN PARTY		STEVEN LYNN FOSTER	\$125.516	0	11/19/2014	Not Filed	\$15,818	\$1,090

2871	C00561712	SARVIS FOR SENATE	SARVIS, ROBERT CHRISTOPHER	JOSEF STORM	\$124,816	0	10/22/2014	7	\$37,556	\$522
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450024-02M14

[illegible]

AF# 2867

AF# 2871

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on December 11, 2014 the Commission took the following actions on the Reason To Believe Recommendation – 2014 October Quarterly Report (Election Sensitive) for the Administrative Fine Program, as recommended in the Reports Analysis Division's Memorandum dated December 09, 2014, on the following committees:

AF#2867 Decided by a vote of 6-0 to: (1) find reason to believe that BUNCOMBE COUNTY REPUBLICAN PARTY, and FOSTER, STEVEN LYNN as treasurer violated 52 U.S.C. 30104(a) (formerly 2 U.S.C. 434(a)) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Federal Election Commission
Certification for Administrative Fines
December 11, 2014

Page 3

AF#2871 Decided by a vote of 6-0 to: (1) find reason to believe that SARVIS FOR SENATE, and JOSEF STORM as treasurer violated 52 U.S.C. 30104(a) (formerly 2 U.S.C. 434(a)) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

December 12, 2014
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 12, 2014

Steven Lynn Foster, in official capacity as Treasurer
Buncombe County Republican Party
32 Orange Street
Asheville, NC 28801

C00165803
AF#: 2867

Dear Mr. Foster:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an October Quarterly Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election. This report, covering the period July 1, 2014 through September 30, 2014, shall be filed no later than October 15, 2014. 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)). Because records at the Federal Election Commission ("FEC") indicate that you did not file this report prior to four (4) days before the General Election held on November 4, 2014, the report is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)). 52 U.S.C. § 30109(a)(4) (formerly 2 U.S.C. § 437g(a)(4)). On December 11, 2014, the FEC found that there is reason to believe ("RTB") that Buncombe County Republican Party and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) by failing to file timely this report on or before October 15, 2014. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$1,090. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$1,090 is due within forty (40) days of the finding, or by January 20, 2015, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$15,818

Number of Days Late: Not Filed (reports not filed prior to four (4) days before the General Election held on November 4, 2014 are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or January 20, 2015. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 52 U.S.C. § 30109 (formerly 2 U.S.C. § 437g). 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Buncombe County Republican Party and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate

action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

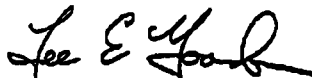
5. Settlement Offers

If you make a payment in an amount less than the calculated civil money penalty as an offer to settle or compromise a debt owed to the Commission, the offer is herewith rejected despite any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2) (formerly 2 U.S.C. § 437g(a)(2)). It will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) (formerly 2 U.S.C. § 437g(a)(4)(B)) and 30109(a)(12)(A) (formerly 437g(a)(12)(A)) until it is placed on the public record in accordance with 11 CFR § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Lee E. Goodman
Chairman

ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$1,090 for the 2014 October Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by January 20, 2015. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Buncombe County Republican Party

FEC ID#: C00165803

AF#: 2867

PAYMENT DUE DATE: January 20, 2015

PAYMENT AMOUNT DUE: \$1,090



Buncombe County Republican Party

Post Office Box 9834, Asheville, NC 28815 828-253-5800

www.BuncombeGOP.org www.facebook.com/buncombegop

January 19, 2015

Regarding: C00165803
AF#: 2867
Challenge to RTB Finding and/or Civil Money Penalty

Lee E. Goodman
Chairman
Federal Elections Commission
Washington DC 20463

Via Certified Mail article number 7014 2120 0002 4853 0672

Dear Mr. Goodman,

This letter will serve as a challenge to the RTB Finding and/or "civil money penalty" in the above referenced matter.

CHALLENGE OF YOUR AUTHORITY TO ACT

In your letter dated December 12, 2014 you admit that the civil money penalty is assessed for an alleged failure to file a report "covering the period July 1, 2014 through September 30, 2014." Your fines are based on your contention that the RTB finding and "civil money penalty" are authorized by subpart B of 11 CFR Ch. 1. You in fact provide excerpts of the regulations which you contend apply. A copy of the regulations you contend apply are labeled as an attachment to your RTB finding letter and presumably serve as the authority you believe justifies your actions.

Section 111.30 of the materials provided however clearly show that your authority to act under Subpart B expired on December 31, 2013.

This raises two possibilities:

- Your authority to act expired and has not been re-authorized prior to the period for which you seek a "civil money penalty." Therefore you are not entitled to assess the "civil money penalty" or make the RTB finding. OR
- You have provided outdated and misleading information while your regulations impose a relatively short time in which to respond to your "finding" and have therefore prejudiced our rights to due process.

Section 111.32(e) expressly requires you to provide *"An explanation of the respondent's rights to challenge both the reason to believe and the proposed civil money penalty."* You have failed to comply with your own requirements by providing outdated and misleading information. You have an express duty to accurately explain our rights as a prerequisite to your ability to impose "civil money penalties." You have failed to comply with your duty and therefore have no authority to impose the penalty.

However even your own rules did not expressly require you to explain by what authority you proceed, we contend that your act of providing the regulatory authority under which you contend you act is based on directives in the United States Code as well as your own historical precedent. This precedent establishes certain rights to due process of law.

In either event your authority to make RTB findings and impose a "civil money penalty" (in this case) under Subpart B is void.

Since the authority under which you indicated that you proceed has clearly expired you are without authorization to act.

THE COMMISSION'S FINDINGS ARE NOT SUPPORTED FACTUALLY

The commission asserts that reports were required to be filed *"covering the period July 1, 2014 through September 30, 2014."* No such report was required as shown above.

The commission asserts that it has authority to make RTB findings and impose "civil money penalties" in this case. As shown above no such authority exists.

Upon information and belief the Commission did not receive a complaint as that term is used in section 111.31 and should not proceed under subpart B. The act of the Commission in proceeding without a complaint from a third party makes it both the prosecutor and the adjudicator of the dispute in this matter.

The Buncombe County Republican Party did not engage in any Federal elections activities during the reporting period and is in the process of correcting the erroneous designation that it is a committee subject to the jurisdiction of the FEC. See the affidavits of Henry Mitchell, Chairman and Loretta Reynolds Secretary.

THE COMMISSION IMPROPERLY CALCULATED THE "CIVIL MONEY PENALTY"

It was improper for the Commission to calculate or impose any fine because the authority under which it acted had expired.

In the event that the commission's authority had been re-authorized it was error for the commission to use the expired schedule of penalties set forth in section 111.43.

In the event that it is found that the commission had authority to impose a "civil money penalty," (which is denied) the commission based that penalty on an erroneous "Level of Activity." The commission's finding that the "Level of Activity" was \$15,818.00 which was not supported by any credible evidence whatsoever. See the affidavit Henry Mitchell and Loretta Reynolds as well as the affidavit of the undersigned regarding the amount raised or spent related to any all Federal elections.

Upon information and belief, the commission had no complaint as required by section 111.31(b). Section 111.31 (b) clearly states that Subpart B will *"apply to compliance matters resulting from a*


complaint filed pursuant to 11 CFR 111.4 through 111.7." You have failed to provide us with a copy of the required complaint. We hereby demand that the required complaint be produced and the individual who filed said complaint be identified.

DEMAND FOR SUPPORTING DOCUMENTS

The responding party hereby demands:

- Copies of all documents that the Commission used to determine that respondent was a "political committee" during the period referenced above (as that term is used in your letter dated December 12, 2014) or were otherwise subject to requirements to report to the FEC.
- Copies of all documents that the Commission used to determine that the "Level of Activity" of the respondent was \$15,818.00.
- Copies of all documents that will be reviewed by the "reviewing officer" under the authority of Section 111.36 (d).
- Copies of all documents that the Commission used to determine that the noticed sent on December 12, 2014 were properly sent to Mr. Steven Lynn Foster, instead of the undersigned.
- Copies of documents sufficient to identify all the Commission's members" who voted in the affirmative that the respondent violated 2 U.S.C. 434(a) as required by section 111.32.

Sincerely,
Buncombe County Republican Party

By 
Katharine L. Penland
Treasurer



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 28, 2015

Katharine L. Penland, Treasurer
Buncombe County Republican Party
P.O. Box 9834
Asheville, NC 28815-0834

C00165803
AF#: 2867

Dear Ms. Penland:

On January 26, 2015, the Commission's Office of Administrative Review ("OAR") received your written response ("challenge") for Buncombe County Republican Party and you, in your official capacity as Treasurer, which is being reviewed by OAR. If you have any questions regarding your challenge, please contact this Office on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,

A handwritten signature in black ink that reads "Rhiannon Magruder". The signature is fluid and cursive.

Rhiannon Magruder
Reviewing Officer
Office of Administrative Review



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2015 MAR 26 PM 4: 20

SENSITIVE

March 26, 2015

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Rhiannon Magruder *RM*
Reviewing Officer
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 2867 – Buncombe County
Republican Party and Katharine L. Penland, in her official capacity as Treasurer
(C00165803)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation. After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Please note, the Committee filed an Amended Statement of Organization (FEC Form 1) on January 15, 2015 to disclose Katharine L. Penland as the current Treasurer. The Reviewing Officer Recommendation reflects the change in Treasurer after RTB, listing the current respondents as Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer.

Attachment



FEDERAL ELECTION COMMISSION March 26, 2015
WASHINGTON, D.C. 20463

**REVIEWING OFFICER RECOMMENDATION ("ROR")
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 2867 – Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer (C00165803)

Summary of Recommendation

Take no further action that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a))¹ and close the file.

Reason-to-Believe Background

The 2014 October Quarterly Report was due on October 15, 2014. The respondents filed the report on November 19, 2014. The report is election sensitive and was not filed prior to four days before the November 4, 2014 General Election; therefore, the report is considered not filed. 11 C.F.R. §§ 111.43(d)(1) and (e)(2).

On December 11, 2014, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to timely file the 2014 October Quarterly Report and made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on December 12, 2014 to notify them of the Commission's RTB finding and civil money penalty.

Legal Requirements

The Federal Election Campaign Act ("Act") states that the treasurer of a political committee not authorized by a candidate which is filing on a quarterly basis shall file an October Quarterly Report in a calendar year in which there is a regularly scheduled general election no later than October 15. 52 U.S.C. § 30104(a)(4)(A)(i) (formerly 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(c)(1)(i).

A local committee of a political party is a political committee if it receives contributions aggregating in excess of \$5,000 during a calendar year, it makes payments exempted from the definition of contribution which aggregate in excess of \$5,000 in a calendar year, or it makes contributions or expenditures aggregating in excess of \$1,000 in a calendar year. 52 U.S.C. § 30101(4)(C) (formerly 2 U.S.C. § 431(4)(C)) and 11 C.F.R. § 100.5(c). A contribution is a gift, subscription, loan, advance, or deposit of money or anything of value made

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended ("the Act"), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

by any person for the purpose of influencing any election for Federal office. 52 U.S.C. § 30101(8)(A) (formerly 2 U.S.C. § 431(8)(A)) and 11 C.F.R. § 100.52(a).

Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on the filing deadline to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

Summary of Respondents' Challenge

On January 26, 2015, the Commission received the written response ("challenge") from the respondents' current Treasurer, Ms. Katharine L. Penland. Ms. Penland contends the Commission's authority to act under 11 C.F.R. § 111, Subpart B expired on December 31, 2013. Further, Ms. Penland states:

"This raises two possibilities.

- Your authority to act expired and has not been re-authorized prior to the period for which you seek a "civil money penalty." Therefore you are not entitled to assess the "civil money penalty" or make the RTB finding. OR
- You have provided outdated and misleading information while your regulations impose a relatively short time in which to respond to your "finding" and have therefore prejudiced our rights to due process.

Section 111.32(e) expressly requires you to provide '*An explanation of the respondent's rights to challenge both the reason to believe and the proposed civil money penalty.*' You have failed to comply with your own requirements by providing outdated and misleading information. You have an express duty to accurately explain our rights as a prerequisite to your ability to impose 'civil money penalties.' You have failed to comply with your duty and therefore have no authority to impose the penalty.

However even your own rules did not expressly require you to explain by what authority you proceed, we contend that your act of providing the regulatory authority under which you contend you act is based on directives in the United States Code as well as your own historical precedent. This precedent establishes certain rights to due process of law.

In either event your authority to make RTB findings and impose a 'civil money penalty' (in this case) under Subpart B is void.

Since the authority under which you indicated that you proceed has clearly expired you are without authorization to act."

The respondents then contend that the report was not required, and the Commission's findings are not supported factually. The respondents explain that "The [Committee] did not engage in any Federal elections activities during the reporting period and is in the process of correcting the erroneous designation that it is a committee subject to the jurisdiction of the FEC." Further, the respondents contend that the Commission improperly calculated the civil money penalty, and the level of activity of \$15,818 is unsupported. The challenge includes affidavits of Henry D. Mitchell, Chairman of the Buncombe County Republican Party; Loretta W. Reynolds, Secretary of the Buncombe County Republican Party; and Katharine L. Penland, Treasurer of the Buncombe County Republican Party. The affidavits of each individual are substantively identical and state:

"1. The Buncombe County Republican Party (BCGOP) did not engage or request any monies of any form from any Federal Candidate or Party or any other Federal election activities during the reporting period of July 1, 2014 through September 30, 2014.

2. The Buncombe County Republican Party (BCGOP) did not solicit or receive any monies on behalf of any Federal Candidate or Party. Neither did it engage in any other Federal election activities during the reporting period of July 1, 2014 through September 30, 2014."

The respondents conclude by requesting the following supporting documents:

- "Copies of all documents that the Commission used to determine that respondent was a 'political committee' during the period referenced above (as that term is used in your letter dated December 12, 2014) or were otherwise subject to requirements to report to the FEC.
- Copies of all documents that the Commission used to determine that the 'Level of Activity' of the respondent was \$15,818.00.
- Copies of all documents that will be reviewed by the 'reviewing officer' under the authority of Section 111.36(d).
- Copies of all documents that the Commission used to determine that the noticed sent on December 12, 2014 were properly sent to Mr. Steven Lynn Foster, instead of the undersigned.
- Copies of documents sufficient to identify all the Commission's members who voted in the affirmative that the respondent violated 2 U.S.C. 434(a) as required by section 111.32."

Summary of Office of General Counsel ("OGC") Guidance

On February 3, 2015, the Office of Administrative Review ("OAR") requested that OGC provide guidance on the following items:

- 1) The respondents' contention that that the Commission's authority to act under 11 C.F.R. § 111, Subpart B has expired;

- 2) The respondents' contention that the Commission inappropriately administered 11 C.F.R. § 111, Subpart B in AF# 2867;
- 3) The respondents' request for supplemental documentation relating to AF# 2867.

On March 19, 2015, OAR received OGC's response. OGC concludes that the Commission's authority to act under 11 C.F.R. § 111, Subpart B has not expired; the Commission appropriately administered 11 C.F.R. § 111, Subpart B in this matter; and OAR may provide all documents requested by the respondents, with the exception of the RTB vote certification.

Analysis

The respondents' challenge does not indicate why the Committee's 2014 October Quarterly Report was not filed. The respondents only raise questions regarding the Commission's authority and implementation of the Administrative Fines Program, and the Committee's status as a political committee.

The challenge contends that the Commission's authority to act under 11 C.F.R. § 111, Subpart B has expired. However, OGC notes that on December 26, 2013, Congress reauthorized the Commission to act under the Administrative Fines Program, extending the Administrative Fines Program to December 31, 2018. The final rule became effective on January 21, 2014. Thus, the Commission has the authority to assess a civil money penalty against the respondents for the failure to timely file the 2014 October Quarterly Report covering July 1, 2014 through September 30, 2014.

In response to the respondents' statements that the Commission did not provide due process, OGC explains that the Administrative Fines Program may be initiated in the normal course of the Commission carrying out its supervisory responsibilities, and a complaint is not required. In addition, OGC confirms that RAD's RTB Letter accorded the respondents due process in this matter and fulfilled the requirements at 11 C.F.R. § 111.32(e). OGC states that the copy of the Administrative Fines Program regulations sent along with RAD's RTB notification were sent as a courtesy, and this does not provide the respondents with any greater rights than those set forth in the regulations. Further, OGC indicates that the respondents did not articulate the procedural rights they were denied, nor did they cite any legal authority upon which they are basing their claim that they were denied due process.

The respondents also requested supporting documents, and OGC concludes OAR may provide all requested documents, with the exception of the RTB vote certification.² RTB vote certifications are not typically provided to respondents nor made public until an administrative fine matter is closed. Since the Commission does not have a past practice or policy of providing RTB vote certifications prior to an administrative fine matter being closed, OGC recommends that OAR not provide this document. OAR's response to the respondents' request for supporting documents is outlined in Attachment 5.

² Effectively, this document would identify the Commission members who affirmatively voted at RTB that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)).

Finally, the Committee contends that the report was not required, and the Commission's findings are not supported factually because "[the Committee] did not engage in any Federal elections activities during the reporting period and is in the process of correcting the erroneous designation that it is a committee subject to the jurisdiction of the FEC."³ Further, the respondents contend that the Commission improperly calculated the civil money penalty, and the level of activity of \$15,818 is unsupported.

On November 19, 2014, the Committee filed the 2014 October Quarterly Report. The report is election sensitive and was not filed prior to four days before the November 4, 2014 General Election; therefore, the report is considered not filed. 11 C.F.R. §§ 111.43(d)(1) and (e)(2). On January 20, 2015, the Committee filed the Amended 2014 October Quarterly Report. Both reports disclosed \$9,592 in total federal receipts and \$6,226 in total federal disbursements, indicating that it did engage in federal activity totaling \$15,818 during the reporting period. At the time RAD made its RTB recommendation, there was no indication that this activity was not for the purpose of influencing federal elections. Therefore, the RTB finding was supported, and the civil money penalty was properly calculated pursuant to the schedule of penalties at 11 C.F.R. § 111.43.

At the request of OAR, a RAD Manager contacted the Treasurer on March 25, 2015 to confirm that the Committee's activity during the period was not for the purpose of influencing federal elections, as contended in the challenge. The Treasurer confirmed and also indicated that if the Committee did participate in any federal election activity, it would have been prior to 2011. The Manager advised the Treasurer to file a Miscellaneous Document (FEC Form 99) to document the Committee's status. The Analyst also asked if it was the Committee's intent to terminate its registration with the Commission, and the Treasurer confirmed. The Manager then explained the process of filing a termination report.

That same day, the Committee filed a Form 99 stating:

"This report is to notify the FEC that the Buncombe County Republican Party is terminating its party committee for FEC purposes. The party will continue to report to the NC State Board of Elections. The reason for terminating the FEC reporting is that this party has not contributed funds to Federal candidates in, at least, two (2) election cycles (2011-2015) or four (4) years. The money that is currently in the bank account (checking as well as a CD) totals \$20,172.44 as of today, March 25, 2015. This money will only be used for funding local candidates (County and State) as well as maintaining an office during election years. A final report will be submitted within 15-20 days of the date of this report."

The respondents' challenge, included affidavits, and the Form 99 filed March 25, 2015 all indicate that the Committee has not and will not participate in any activity for the purpose of influencing federal elections that would require it to register as a political committee pursuant to

³ The Committee has been filing on a quarterly basis since it registered as a political committee on 12/31/1982.

11 C.F.R. § 100.5. Therefore, the Reviewing Officer recommends that the Committee file a termination report pursuant to 11 C.F.R. § 102.3(a)(1) to request the termination of its filing requirements with the Commission.⁴ The respondents should submit its termination report within 20 days of receipt of this recommendation.

The Committee, as a registered local party committee, was required to timely file the 2014 October Quarterly Report with the Commission pursuant to 52 U.S.C. § 30104(a)(4)(A)(i) (formerly 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(c)(1)(i). As highlighted by OGC, their challenge fails to address any of the three valid grounds at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. 11 C.F.R. § 104.14(d). However, the Reviewing Officer recognizes that the Committee may not be required to be registered as a political committee with the Commission. Therefore, pending the Committee's submission of a termination report, as advised above, the Reviewing Officer recommends that the Commission take no further action and close the file.

OAR Recommendations

- 1) Pending the Committee's submission of a termination report, as advised above, take no further action in AF# 2867 that Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file; and
- 2) Send the appropriate letter.

Attachments

- Attachment 1 – Challenge Received from Respondents
- Attachment 2 –
- Attachment 3 – Declaration from RAD
- Attachment 4 – Declaration from OAR
- Attachment 5 –

⁴ Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.



Buncombe County Republican Party

Post Office Box 9834, Asheville, NC 28815 828-253-5800

www.BuncombeGOP.org www.facebook.com/buncombegop

January 19, 2015

Regarding: C00165803
AF#: 2867
Challenge to RTB Finding and/or Civil Money Penalty

Lee E. Goodman
Chairman
Federal Elections Commission
Washington DC 20463

Via Certified Mail article number 7014 2120 0002 4853 0672

Dear Mr. Goodman,

This letter will serve as a challenge to the RTB Finding and/or "civil money penalty" in the above referenced matter.

CHALLENGE OF YOUR AUTHORITY TO ACT

In your letter dated December 12, 2014 you admit that the civil money penalty is assessed for an alleged failure to file a report "*covering the period July 1, 2014 through September 30, 2014.*" Your fines are based on your contention that that the RTB finding and "civil money penalty" are authorized by subpart B of 11 CFR Ch. 1. You in fact provide excerpts of the regulations which you contend apply. A copy of the regulations you contend apply are labeled as an attachment to your RTB finding letter and presumably serve as the authority you believe justifies your actions.

Section 111.30 of the materials provided however clearly show that your authority to act under Subpart B expired on December 31, 2013.

This raises two possibilities:

- Your authority to act expired and has not been re-authorized prior to the period for which you seek a "civil money penalty." Therefore you are not entitled to assess the "civil money penalty" or make the RTB finding. OR
- You have provided outdated and misleading information while your regulations impose a relatively short time in which to respond to your "finding" and have therefore prejudiced our rights to due process.

Section 111.32(e) expressly requires you to provide *"An explanation of the respondent's rights to challenge both the reason to believe and the proposed civil money penalty."* You have failed to comply with your own requirements by providing outdated and misleading information. You have an express duty to accurately explain our rights as a prerequisite to your ability to impose "civil money penalties." You have failed to comply with your duty and therefore have no authority to impose the penalty.

However even your own rules did not expressly require you to explain by what authority you proceed, we contend that your act of providing the regulatory authority under which you contend you act is based on directives in the United States Code as well as your own historical precedent. This precedent establishes certain rights to due process of law.

In either event your authority to make RTB findings and impose a "civil money penalty" (in this case) under Subpart B is void.

Since the authority under which you indicated that you proceed has clearly expired you are without authorization to act.

THE COMMISSION'S FINDINGS ARE NOT SUPPORTED FACTUALLY

The commission asserts that reports were required to be filed *"covering the period July 1, 2014 through September 30, 2014."* No such report was required as shown above.

The commission asserts that it has authority to make RTB findings and impose "civil money penalties" in this case. As shown above no such authority exists.

Upon information and belief the Commission did not receive a complaint as that term is used in section 111.31 and should not proceed under subpart B. The act of the Commission in proceeding without a complaint from a third party makes it both the prosecutor and the adjudicator of the dispute in this matter.

The Buncombe County Republican Party did not engage in any Federal elections activities during the reporting period and is in the process of correcting the erroneous designation that it is a committee subject to the jurisdiction of the FEC. See the affidavits of Henry Mitchell, Chairman and Loretta Reynolds Secretary.

THE COMMISSION IMPROPERLY CALCULATED THE "CIVIL MONEY PENALTY"

It was improper for the Commission to calculate or impose any fine because the authority under which it acted had expired.

In the event that the commission's authority had been re-authorized it was error for the commission to use the expired schedule of penalties set forth in section 111.43.

In the event that it is found that the commission had authority to impose a "civil money penalty," (which is denied) the commission based that penalty on an erroneous "Level of Activity." The commission's finding that the "Level of Activity" was \$15,818.00 which was not supported by any credible evidence whatsoever. See the affidavit Henry Mitchell and Loretta Reynolds as well as the affidavit of the undersigned regarding the amount raised or spent related to any all Federal elections.

Upon information and belief, the commission had no complaint as required by section 111.31(b). Section 111.31 (b) clearly states that Subpart B will *"apply to compliance matters resulting from a*

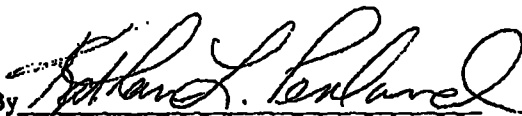
complaint filed pursuant to 11 CFR 111.4 through 111.7." You have failed to provide us with a copy of the required complaint. We hereby demand that the required complaint be produced and the individual who filed said complaint be identified.

DEMAND FOR SUPPORTING DOCUMENTS

The responding party hereby demands:

- Copies of all documents that the Commission used to determine that respondent was a "political committee" during the period referenced above (as that term is used in your letter dated December 12, 2014) or were otherwise subject to requirements to report to the FEC.
- Copies of all documents that the Commission used to determine that the "Level of Activity" of the respondent was \$15,818.00.
- Copies of all documents that will be reviewed by the "reviewing officer" under the authority of Section 111.36 (d).
- Copies of all documents that the Commission used to determine that the noticed sent on December 12, 2014 were properly sent to Mr. Steven Lynn Foster, instead of the undersigned.
- Copies of documents sufficient to identify all the Commission's members" who voted in the affirmative that the respondent violated 2 U.S.C. 434(a) as required by section 111.32.

Sincerely,
Buncombe County Republican Party

By 

Katharine L. Penland
Treasurer

DECLARATION OF KRISTIN D. ROSER

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Buncombe County Republican Party:
 - A) Non-Filer Letter, dated November 3, 2014, referencing the 2014 October Quarterly Report (sent via electronic mail to: sfoster@gmg-cpa.com);
 - B) Reason-to-Believe Letter, dated December 12, 2014 referencing the 2014 October Quarterly Report (sent via overnight mail to the address of record).
3. I hereby certify that I have searched the Commission's public records and find that Buncombe County Republican Party filed the 2014 October Quarterly Report with the Commission on November 19, 2014.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 2nd day of February, 2015.



Kristin D. Roser
Chief, Compliance Branch
Reports Analysis Division
Federal Election Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-7

November 3, 2014

FOSTER, STEVEN LYNN, TREASURER
BUNCOMBE COUNTY REPUBLICAN PARTY
32 ORANGE STREET
ASHEVILLE, NC 28801

IDENTIFICATION NUMBER: C00165803

REFERENCE: OCTOBER QUARTERLY REPORT (07/01/2014 - 09/30/2014)

Dear Treasurer:

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced report of receipts and disbursements or failed to file a report covering the entire reporting period as required by the Federal Election Campaign Act, as amended. 52 U.S.C. §30104(a) (formerly 2 U.S.C. §434(a))

It is important that you file this report immediately with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Please note that electronic filers must submit their reports electronically, as per 11 CFR §104.18. A copy of the report or relevant portions must also be filed with the Secretary of State or equivalent State officer unless the State is exempt from the federal requirement to receive and maintain paper copies. You can verify the Commission's receipt of any documents submitted by your committee on the FEC website at www.fec.gov.

The failure to timely file a complete report may result in civil money penalties, an audit or legal enforcement action. The civil money penalty calculation for late reports does not include a grace period and begins on the day following the due date for the report. Due to heightened security screening measures, delivery of mail by the US Postal Service may be delayed. The Commission recommends that you submit your report via overnight delivery or courier service.

If you have any questions regarding this matter, please contact Christopher Ritchie in the Reports Analysis Division on our toll free number (800)424-9530. The analyst's direct number is (202)694-1146.

BUNCOMBE COUNTY REPUBLICAN PARTY

Page 2 of 2

Sincerely,

Debbie Chacona

Deborah Chacona
Assistant Staff Director
Reports Analysis Division

250

14330064292

DECLARATION OF RHIANNON MAGRUDER

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) A political committee not authorized by a candidate which is filing on a quarterly basis shall file an October Quarterly Report in a calendar year in which there is a regularly scheduled general election no later than October 15. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on October 15, 2014 for the 2014 October Quarterly Report to be timely filed.
- 3) It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
- 4) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
 - a) Amended Statement of Organization filed by Buncombe County Republican Party and Steven Lynn Foster, in his official capacity as Treasurer. According to the Commission's records, the document was received on June 10, 2014 and lists Steven Lynn Foster as Treasurer;
 - b) Amended Statement of Organization filed by Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer. According to the Commission's records, the document was received on January 15, 2015 and lists Katharine L. Penland as Treasurer;
 - c) Report Cover Page, Summary Page, and Detailed Summary Pages for the 2014 October Quarterly Report electronically filed by Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer. According to the Commission's records, the report covers the period from July 1 through September 30, 2014 and was received on November 19, 2014;
 - d) Report Cover Page, Summary Page, and Detailed Summary Pages for the 2014 October Quarterly Report electronically filed by Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer. According to the Commission's records, the report covers the period from July 1 through September 30, 2014 and was received on January 20, 2015.

- e) Miscellaneous Document electronically filed by Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer. According to the Commission's records, the document was received on March 25, 2015.
- 5) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 26th day of March, 2015.

Rhiannon Magruder

Rhiannon Magruder
Reviewing Officer
Office of Administrative Review
Federal Election Commission

FEC
FORM 1STATEMENT OF
ORGANIZATION

Office Use Only

1. NAME OF
COMMITTEE (in full)(Check if name
is changed)Example: If typing, type
over the lines.

12FE4M5

BUNCOMBE COUNTY REPUBLICAN PARTY

ADDRESS (number and street)

32 Orange Street

(Check if address
is changed)

ASHEVILLE

CITY ▲

NC

STATE ▲

28801

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS

(Check if address
is changed)

sfoster@gmg-cpa.com

Optional Second E-Mail Address

COMMITTEE'S WEB PAGE ADDRESS (URL)

(Check if address
is changed)

2. DATE

06 / 10 / 2014

3. FEC IDENTIFICATION NUMBER ►

C00185803

4. IS THIS STATEMENT

NEW (N)

OR



AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Steven Lynn Foster

Signature of Treasurer

Steven Lynn Foster

[Electronically Filed]

Date

06 / 10 / 2014

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.
ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.Office
Use
OnlyFor further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-694-1100FEC FORM 1
(Revised 06/2012)

5. TYPE OF COMMITTEE

Candidate Committee:

- (a) ☐ This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate

Candidate Party Affiliation

Office Sought:

House

Senate

President

State

District

- (c) ☐ This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of Candidate

Party Committee:

- (d) ☒ This committee is a ☐ SUB (National, State or subordinate) committee of the ☐ REP (Democratic, Republican, etc.) Party.

Political Action Committee (PAC):

- (e) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:
- ☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization
- ☐ Membership Organization ☐ Trade Association ☐ Cooperative

In addition, this committee is a Lobbyist/Registrant PAC.

- (f) ☐ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)

In addition, this committee is a Lobbyist/Registrant PAC.

In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

Joint Fundraising Representative:

- (g) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (h) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

Committees Participating in Joint Fundraiser

- | | | | |
|----|----------------------|---------------|----------------------|
| 1. | <input type="text"/> | FEC ID number | <input type="text"/> |
| 2. | <input type="text"/> | FEC ID number | <input type="text"/> |
| 3. | <input type="text"/> | FEC ID number | <input type="text"/> |
| 4. | <input type="text"/> | FEC ID number | <input type="text"/> |

Write or Type Committee Name

BUNCOMBE COUNTY REPUBLICAN PARTY**6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor**

NONE

Mailing Address

CITY

STATE

ZIP CODE

Relationship: ☐ Connected Organization ☐ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor**7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.**

Full Name

Mailing Address

Title or Position

CITY

STATE

ZIP CODE

Telephone number

8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).Full Name
of Treasurer Steven Lynn Foster

Mailing Address

32 Orange Street

Asheville

CITY

STATE

NC

28801

ZIP CODE

Title or Position
TREASURER/CPA

Telephone number

828

771

5019

Full Name of
Designated
Agent

Mailing Address

Title or Position

Telephone number

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

FIRST BANK

Mailing Address

BOX 866

TROY

NC

27371

CITY

STATE

ZIP CODE

Name of Bank, Depository, etc.

Mailing Address

CITY

STATE

ZIP CODE

FEC
FORM 1STATEMENT OF
ORGANIZATION

Office Use Only

1. NAME OF
COMMITTEE (in full)(Check if name
is changed)Example: If typing, type
over the lines.

12FE4M5

BUNCOMBE COUNTY REPUBLICAN PARTY

ADDRESS (number and street)

PO Box 9834

☒ (Check if address
is changed)

ASHEVILLE

CITY ▲

NC

STATE ▲

28815-0834

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS

☒ (Check if address
is changed)

kathypenland1079@gmail.com

Optional Second E-Mail Address

COMMITTEE'S WEB PAGE ADDRESS (URL)

☐ (Check if address
is changed)

2. DATE

01 / 15 / 2015

3. FEC IDENTIFICATION NUMBER ►

C00185803

4. IS THIS STATEMENT



NEW (N)

OR



AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer KATHARINE L PENLAND

Signature of Treasurer

KATHARINE L PENLAND

[Electronically Filed]

Date

01 / 15 / 2015

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.
ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.Office
Use
OnlyFor further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-694-1100FEC FORM 1
(Revised 06/2012)

5. TYPE OF COMMITTEE

Candidate Committee:

- (a) ☐ This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of Candidate

Candidate Party Affiliation

Office Sought:

House

Senate

President

State

District

- (c) ☐ This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of Candidate

Party Committee:

- (d) ☒ This committee is a ☐ SUB (National, State or subordinate) committee of the ☐ REP (Democratic, Republican, etc.) Party.

Political Action Committee (PAC):

- (e) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is a:

☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization

☐ Membership Organization ☐ Trade Association ☐ Cooperative

☐ In addition, this committee is a Lobbyist/Registrant PAC.

- (f) ☐ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (i.e., nonconnected committee)

☐ In addition, this committee is a Lobbyist/Registrant PAC.

☐ In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

Joint Fundraising Representative:

- (g) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (h) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

Committees Participating in Joint Fundraiser

1.	<input type="text"/>	FEC ID number	<input type="text"/>
2.	<input type="text"/>	FEC ID number	<input type="text"/>
3.	<input type="text"/>	FEC ID number	<input type="text"/>
4.	<input type="text"/>	FEC ID number	<input type="text"/>

Write or Type Committee Name

BUNCOMBE COUNTY REPUBLICAN PARTY**6. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor****NC REPUBLICAN PARTY**

Mailing Address

1506 HILLSBOROUGH STREET

RALEIGH

NC

27605

CITY

STATE

ZIP CODE

Relationship: ☐ Connected Organization ☒ Affiliated Committee ☐ Joint Fundraising Representative ☐ Leadership PAC Sponsor**7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.**

Full Name

Mailing Address

Title or Position

CITY

STATE

ZIP CODE

Telephone number

8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).Full Name
of Treasurer

KATHARINE L PENLAND

Mailing Address

PO BOX 777

ENKA

NC

28728

CITY

STATE

ZIP CODE

Title or Position
Treasurer

Telephone number

828

778

5224

Full Name of
Designated
Agent

Mailing Address

Title or Position

Telephone number

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

FIRST BANK

Mailing Address

BOX 866

TROY

NC

27371

CITY

STATE

ZIP CODE

Name of Bank, Depository, etc.

Mailing Address

CITY

STATE

ZIP CODE

Image# 14952594473

**FEC
FORM 3X****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (In full) TYPE OR PRINT ▼ Example: If typing, type over the lines.

12FE4M5

BUNCOMBE COUNTY REPUBLICAN PARTY

ADDRESS (number and street)

32 Orange Street

Check if different
than previously
reported. (ACC)

ASHEVILLE

NC

28801

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

STATE ▲

ZIP CODE ▲

C00165803

3. IS THIS
REPORT☒NEW
(N)

OR

☐AMENDED
(A)4. TYPE OF REPORT
(Choose One)

(a) Quarterly Reports:

April 15
Quarterly Report (Q1)July 15
Quarterly Report (Q2)☒ October 15
Quarterly Report (Q3)☐ January 31
Year-End Report (YE)☐ July 31 Mid-Year
Report (Non-election
Year Only) (MY)☐ Termination Report
(TER)(b) Monthly
Report
Due On:☐ Feb 20 (M2)☐ May 20 (M5)☐ Aug 20 (M8)☐ Nov 20 (M11)
(Non-Election
Year Only)☐ Mar 20 (M3)☐ Jun 20 (M6)☐ Sep 20 (M9)☐ Dec 20 (M12)
(Non-Election
Year Only)☐ Apr 20 (M4)☐ Jul 20 (M7)☐ Oct 20 (M10)☐ Jan 31 (YE)(c) 12-Day
PRE-Election
Report for the:☐ Primary (12P)☐ General (12G)☐ Runoff (12R)☐ Convention (12C)☐ Special (12S)

Election on

M / M / Y Y Y Y

In the
State of(d) 30-Day
POST-Election
Report for the:☐ General (30G)☐ Runoff (30R)☐ Special (30S)

Election on

M / M / Y Y Y Y

In the
State of

5. Covering Period

07

01

2014

through

09

30

2014

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer KATHARINE L PENLAND

Signature of Treasurer

KATHARINE L PENLAND

[Electronically Filed]

Date

11

19

2014

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office
Use
Only**FEC FORM 3X**
Rev. 12/2004

SUMMARY PAGE OF RECEIPTS AND DISBURSEMENTS

FEC Form 3X (Rev. 02/2003)

Page 2

Write or Type Committee Name

BUNCOMBE COUNTY REPUBLICAN PARTY

Report Covering the Period:

From:

07 / 01 / 2014

To:

09 / 30 / 2014

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. (a) Cash on Hand January 1, 2014		24101.16
(b) Cash on Hand at Beginning of Reporting Period.....	38220.44	
(c) Total Receipts (from Line 19).....	9592.16	45079.01
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B).....	45812.60	69180.17
7. Total Disbursements (from Line 31).....	6226.15	28593.72
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d)).....	39586.45	39586.45
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D).....	0.00	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D).....	0.00	

☐ This committee has qualified as a multicandidate committee. (see FEC FORM 1M)

For further information contact:

Federal Election Commission
999 E Street, NW
Washington, DC 20463

Toll Free 800-424-9530
Local 202-694-1100

DETAILED SUMMARY PAGE of Receipts

FEC Form 3X (Rev. 06/2004)

Page 3

Write or Type Committee Name

BUNCOMBE COUNTY REPUBLICAN PARTY

Report Covering the Period:

From:

MM / DD / YYYY
07 / 01 / 2014

To:

MM / DD / YYYY
09 / 30 / 2014**I. Receipts**
COLUMN A
Total This Period

COLUMN B
Calendar Year-to-Date
11. Contributions (other than loans) From:

(a) Individuals/Persons Other Than Political Committees

(i) Itemized (use Schedule A).....

6613.15

30361.80

(ii) Unitemized

1978.85

12710.78

(iii) TOTAL (add

Lines 11(a)(i) and (ii)..... ▶

8590.00

43072.38

(b) Political Party Committees

0.00

0.00

(c) Other Political Committees

(such as PACs).....

1000.00

2000.00

(d) Total Contributions (add Lines

11(a)(iii), (b), and (c)) (Carry
Totals to Line 33, page 5)

9590.00

45072.38

12. Transfers From Affiliated/Other

Party Committees.....

0.00

0.00

13. All Loans Received.....

0.00

0.00

14. Loan Repayments Received.....

0.00

0.00

15. Offsets To Operating Expenditures

(Refunds, Rebates, etc.)

(Carry Totals to Line 37, page 5).....

0.00

0.00

16. Refunds of Contributions Made

to Federal Candidates and Other

Political Committees.....

0.00

0.00

17. Other Federal Receipts

(Dividends, Interest, etc.).....

2.16

6.63

18. Transfers from Non-Federal and Levin Funds

(a) Non-Federal Account

(from Schedule H3).....

0.00

0.00

(b) Levin Funds (from Schedule H5)

0.00

0.00

(c) Total Transfers (add 18(a) and 18(b))..

0.00

0.00

19. Total Receipts (add Lines 11(d),

12, 13, 14, 15, 16, 17, and 18(c))..... ▶

9592.16

45079.01

20. Total Federal Receipts

(subtract Line 18(c) from Line 19)..... ▶

9592.16

45079.01

DETAILED SUMMARY PAGE of Disbursements

FEC Form 3X (Rev. 02/2003)

Page 4

II. Disbursements	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
21. Operating Expenditures:		
(a) Allocated Federal/Non-Federal Activity (from Schedule H4)		
(i) Federal Share	0.00	0.00
(ii) Non-Federal Share	0.00	6209.61
(b) Other Federal Operating Expenditures	6226.15	6226.15
(c) Total Operating Expenditures (add 21(a)(i), (a)(ii), and (b))	6226.15	12435.76
22. Transfers to Affiliated/Other Party Committees	0.00	0.00
23. Contributions to Federal Candidates/Committees and Other Political Committees	0.00	0.00
24. Independent Expenditures (use Schedule E)	0.00	0.00
25. Coordinated Party Expenditures (2 U.S.C. §441a(d)) (use Schedule F)	0.00	0.00
26. Loan Repayments Made	0.00	0.00
27. Loans Made	0.00	0.00
28. Refunds of Contributions To:		
(a) Individuals/Persons Other Than Political Committees	0.00	0.00
(b) Political Party Committees	0.00	0.00
(c) Other Political Committees (such as PACs)	0.00	0.00
(d) Total Contribution Refunds (add Lines 28(a), (b), and (c))	0.00	0.00
29. Other Disbursements	0.00	17157.96
30. Federal Election Activity (2 U.S.C. §431(20))		
(a) Allocated Federal Election Activity (from Schedule H6)		
(i) Federal Share	0.00	0.00
(ii) "Levin" Share	0.00	0.00
(b) Federal Election Activity Paid Entirely With Federal Funds	0.00	0.00
(c) Total Federal Election Activity (add Lines 30(a)(i), 30(a)(ii) and 30(b))	0.00	0.00
31. Total Disbursements (add Lines 21(c), 22, 23, 24, 25, 26, 27, 28(d), 29 and 30(c)) ..	6226.15	29593.72
32. Total Federal Disbursements (subtract Line 21(a)(ii) and Line 30(a)(ii) from Line 31)	6226.15	23384.11

Image# 15970023409

**FEC
FORM 3X****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (In full) TYPE OR PRINT ▼ Example: If typing, type over the lines.

12FE4M5

BUNCOMBE COUNTY REPUBLICAN PARTY

ADDRESS (number and street)

PO Box 9834

Check if different
than previously
reported. (ACC)

ASHEVILLE

NC

28815-0834

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

STATE ▲

ZIP CODE ▲

C C00165803

3. IS THIS
REPORTNEW
(N)

OR

☒AMENDED
(A)4. TYPE OF REPORT
(Choose One)

(a) Quarterly Reports:

- ☐ April 15
Quarterly Report (Q1)
- ☐ July 15
Quarterly Report (Q2)
- ☒ October 15
Quarterly Report (Q3)
- ☐ January 31
Year-End Report (YE)
- ☐ July 31 Mid-Year
Report (Non-election
Year Only) (MY)
- ☐ Termination Report
(TER)

(b) Monthly
Report
Due On:

- ☐ Feb 20 (M2) ☐ May 20 (M5) ☐ Aug 20 (M8) ☐ Nov 20 (M11)
(Non-Election Year Only)
- ☐ Mar 20 (M3) ☐ Jun 20 (M6) ☐ Sep 20 (M9) ☐ Dec 20 (M12)
(Non-Election Year Only)
- ☐ Apr 20 (M4) ☐ Jul 20 (M7) ☐ Oct 20 (M10) ☐ Jan 31 (YE)

(c) 12-Day
PRE-Election
Report for the:

- ☐ Primary (12P) ☐ General (12G) ☐ Runoff (12R)
- ☐ Convention (12C) ☐ Special (12S)

Election on

MM / DD / YYYY

In the
State of

XX

(d) 30-Day
POST-Election
Report for the:

- ☐ General (30G) ☐ Runoff (30R) ☐ Special (30S)

Election on

MM / DD / YYYY

In the
State of

XX

5. Covering Period

07 / 01 / 2014

through

09 / 30 / 2014

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer KATHARINE L PENLAND

Signature of Treasurer

KATHARINE L PENLAND

[Electronically Filed]

Date

01 / 20 / 2015

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office
Use
Only**FEC FORM 3X**
Rev. 12/2004

15970023409

SUMMARY PAGE OF RECEIPTS AND DISBURSEMENTS

FEC Form 3X (Rev. 02/2003)

Page 2

Write or Type Committee Name

BUNCOMBE COUNTY REPUBLICAN PARTY

Report Covering the Period:

From:

MM / DD / YYYY
07 / 01 / 2014

To:

MM / DD / YYYY
09 / 30 / 2014

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. (a) Cash on Hand January 1, 2014		24101.16
(b) Cash on Hand at Beginning of Reporting Period.....	36220.44	
(c) Total Receipts (from Line 19)	8592.16	45079.01
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	45812.60	69180.17
7. Total Disbursements (from Line 31)	6226.15	29583.72
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	39586.45	39586.45
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	0.00	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	0.00	

This committee has qualified as a multicandidate committee. (see FEC FORM 1M)

For further information contact:

Federal Election Commission
999 E Street, NW
Washington, DC 20463

Toll Free 800-424-9530
Local 202-694-1100

DETAILED SUMMARY PAGE of Receipts

FEC Form 3X (Rev. 06/2004)

Page 3

Write or Type Committee Name

BUNCOMBE COUNTY REPUBLICAN PARTY

Report Covering the Period:

From:

07

01

2014

To:

09

30

2014

I. Receipts
COLUMN A
Total This Period

COLUMN B
Calendar Year-to-Date
11. Contributions (other than loans) From:

(a) Individuals/Persons Other Than Political Committees

(i) Itemized (use Schedule A).....

5553.00

28301.45

(ii) Unitemized.....

3037.00

13770.93

(iii) TOTAL (add

Lines 11(a)(i) and (ii).....▶

8590.00

43072.38

(b) Political Party Committees.....

0.00

0.00

(c) Other Political Committees

(such as PACs).....

1000.00

2000.00

(d) Total Contributions (add Lines

11(a)(iii), (b), and (c)) (Carry

Totals to Line 33, page 5).....▶

9590.00

45072.38

12. Transfers From Affiliated/Other

Party Committees.....

0.00

0.00

13. All Loans Received.....

0.00

0.00

14. Loan Repayments Received.....

0.00

0.00

15. Offsets To Operating Expenditures

(Refunds, Rebates, etc.)

(Carry Totals to Line 37, page 5).....

0.00

0.00

16. Refunds of Contributions Made

to Federal Candidates and Other

Political Committees.....

0.00

0.00

17. Other Federal Receipts

(Dividends, Interest, etc.).....

2.18

6.83

18. Transfers from Non-Federal and Levin Funds

(a) Non-Federal Account

(from Schedule H3).....

0.00

0.00

(b) Levin Funds (from Schedule H5).....

0.00

0.00

(c) Total Transfers (add 18(a) and 18(b))..

0.00

0.00

19. Total Receipts (add Lines 11(d), 12, 13, 14, 15, 16, 17, and 18(c)).....▶

9592.16

45079.01

20. Total Federal Receipts

(subtract Line 18(c) from Line 19).....▶

9592.16

45079.01

DETAILED SUMMARY PAGE of Disbursements

FEC Form 3X (Rev. 02/2003)

Page 4

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21. Operating Expenditures:		
(a) Allocated Federal/Non-Federal Activity (from Schedule H4)		
(i) Federal Share	0.00	0.00
(ii) Non-Federal Share.....	0.00	6209.61
(b) Other Federal Operating Expenditures	6226.15	6226.15
(c) Total Operating Expenditures (add 21(a)(i), (a)(ii), and (b))	8226.15	12435.76
22. Transfers to Affiliated/Other Party Committees.....	0.00	0.00
23. Contributions to Federal Candidates/Committees and Other Political Committees.....	0.00	0.00
24. Independent Expenditures (use Schedule E)	0.00	0.00
25. Coordinated Party Expenditures (2 U.S.C. §441a(d)) (use Schedule F).....	0.00	0.00
26. Loan Repayments Made.....	0.00	0.00
27. Loans Made.....	0.00	0.00
28. Refunds of Contributions To:		
(a) Individuals/Persons Other Than Political Committees	0.00	0.00
(b) Political Party Committees	0.00	0.00
(c) Other Political Committees (such as PACs).....	0.00	0.00
(d) Total Contribution Refunds (add Lines 28(a), (b), and (c)).....	0.00	0.00
29. Other Disbursements	0.00	17157.96
30. Federal Election Activity (2 U.S.C. §431(20))		
(a) Allocated Federal Election Activity (from Schedule H6)		
(i) Federal Share	0.00	0.00
(ii) "Levin" Share.....	0.00	0.00
(b) Federal Election Activity Paid Entirely With Federal Funds	0.00	0.00
(c) Total Federal Election Activity (add Lines 30(a)(i), 30(a)(ii) and 30(b))	0.00	0.00
31. Total Disbursements (add Lines 21(c), 22, 23, 24, 25, 26, 27, 28(d), 29 and 30(c)) ..	8226.15	29593.72
32. Total Federal Disbursements (subtract Line 21(a)(ii) and Line 30(a)(ii) from Line 31).....	6226.15	23384.11

MISCELLANEOUS TEXT (FEC Form 99)

PAGE 1 / 1

This report is to notify the FEC that the Buncombe County Republican Party is terminating its party committee for FEC purposes. The party will continue to report to the NC State Board of Elections. The reason for terminating the FEC reporting is that this party has not contributed funds to Federal candidates in, at least, two (2) election cycles (2011-2015) or four (4) years. The money that is currently in the bank account (checking as well as a CD) totals \$20,172.44 as of today, March 25, 2015. This money will only be used for funding local candidates (County and State) as well as maintaining an office during election years. A final report will be submitted within 15-20 days of the date of this report. Thank you very much.

15970315971

OAR's Response to Respondents' Request for Supporting Documents

- 1) In response to the respondents' request for "copies of all documents that the Commission used to determine that respondent was a 'political committee' during the period [of July 1 through September 30, 2014], (as that term is used in your letter dated December 12, 2014) or were otherwise subject to requirements to report to the FEC," OAR provides:
 - a) Amended Statement of Organization filed 6/10/14 and in effect on 10/15/14. See Declaration of Rhiannon Magruder, Attachment 4.
 - b) Cover Page, Summary Page, and Detailed Summary Pages of 2014 October Quarterly Report, filed 11/19/14. See Declaration of Rhiannon Magruder, Attachment 4.
- 2)
- 3) In response to the respondents' request for "copies of all documents that will be reviewed by the 'reviewing officer' under the authority of Section 111.36 (d)," OAR provides:
 - a) See Request for Guidance Sent to and Guidance Received from OGC, Attachment 2.
 - b) See Declaration of Kristin D. Roser, Attachment 3.
 - c) See Declaration of Rhiannon Magruder, Attachment 4.
- 4) In response to the respondents' request for "copies of all documents that the Commission used to determine that the notice sent on December 12, 2014 were properly sent to Mr. Steven Lynn Foster, instead of [Ms. Katharine L. Penland]," OAR provides:
 - a) Amended Statement of Organization filed 6/10/14 and in effect on 12/12/14. See Declaration of Rhiannon Magruder, Attachment 4.
 - b) Amended Statement of Organization filed 1/15/15 and in effect as of 1/15/15. See Declaration of Rhiannon Magruder, Attachment 4.
- 5)



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 26, 2015

Katharine L. Penland, Treasurer
Buncombe County Republican Party
P.O. Box 9834
Asheville, NC 28815-0834

C00165803
AF#: 2867

Dear Ms. Penland:

On December 11, 2014, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Buncombe County Republican Party and you, in your official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to file the 2014 October Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by the Candidate and Commission staff, the Reviewing Officer has recommended, pending further action by you, that the Commission take no further action and close the file. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Rhiannon Magruder".

Rhiannon Magruder
Reviewing Officer
Office of Administrative Review



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2015 APR -9 P 12:56

April 9, 2015

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Rhiannon Magruder *PCO*
Reviewing Officer
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2867 – Buncombe County
Republican Party and Katharine L. Penland, in her official capacity as Treasurer
(C00165803)

On December 11, 2014, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to timely file the 2014 October Quarterly Report and made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 26, 2015, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer Recommendation ("ROR") dated March 26, 2015 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Committee, as a registered local party committee, was required to timely file the 2014 October Quarterly Report with the Commission pursuant to 52 U.S.C. § 30104(a)(4)(A)(i) (formerly 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(c)(1)(i). However, the respondents' challenge, included affidavits, and the Form 99 filed March 25, 2015 all indicate that the Committee has not and will not participate in any activity for the purpose of influencing federal elections that would require it to register as a political committee pursuant to 11 C.F.R. § 100.5. Therefore, in the ROR, the Reviewing Officer recommended that the Committee file a termination report pursuant to 11 C.F.R. § 102.3(a)(1) to request the termination of its filing requirements with the Commission. Pending the Committee's submission of a termination report, the Reviewing Officer recommended that the Commission take no further action and close the file.

THEORY

THEORY

- # THEORY

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation –) AF 2867
Buncombe County Republican Party and)
Katharine L. Penland, in her official)
capacity as Treasurer (C00165803))

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 23, 2015, the Commission decided by a vote of 6-0 to take the following actions in AF 2867:

1. Take no further action in AF# 2867 that Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file.
2. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

April 23, 2015
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 23, 2015

Katharine L. Penland, Treasurer
Buncombe County Republican Party
P.O. Box 9834
Asheville, NC 28815-0834

C00165803
AF#: 2867

Dear Ms. Penland:

On December 11, 2014, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Buncombe County Republican Party and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to file the 2014 October Quarterly Report. By letter dated December 12, 2014, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$1,090 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On January 26, 2015, the Office of Administrative Review received your written response challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and your written response. Pending your submission of a termination report, the Reviewing Officer recommended that the Commission take no further action and close the file. A copy of the Reviewing Officer Recommendation was sent to you on March 26, 2015.

On April 23, 2015, the Commission adopted the Reviewing Officer's recommendation, and voted to take no further action with respect to 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file. A copy of the Final Determination Recommendation is attached.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) (formerly 2 U.S.C. § 437g(a)(12)) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

If you have any questions regarding this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Ann M. Ravel". The signature is fluid and cursive, with the first name "Ann" and middle initial "M" being more distinct than the last name "Ravel".

Ann M. Ravel
Chair

Attachment

UNCLASSIFIED



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

2015 APR -9 P 12: 56

April 9, 2015

MEMORANDUM

SENSITIVE

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Rhiannon Magruder *PCO*
Reviewing Officer
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2867 – Buncombe County
Republican Party and Katharine L. Penland, in her official capacity as Treasurer
(C00165803)

On December 11, 2014, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to timely file the 2014 October Quarterly Report and made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 26, 2015, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer Recommendation ("ROR") dated March 26, 2015 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Committee, as a registered local party committee, was required to timely file the 2014 October Quarterly Report with the Commission pursuant to 52 U.S.C. § 30104(a)(4)(A)(i) (formerly 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(c)(1)(i). However, the respondents' challenge, included affidavits, and the Form 99 filed March 25, 2015 all indicate that the Committee has not and will not participate in any activity for the purpose of influencing federal elections that would require it to register as a political committee pursuant to 11 C.F.R § 100.5. Therefore, in the ROR, the Reviewing Officer recommended that the Committee file a termination report pursuant to 11 C.F.R § 102.3(a)(1) to request the termination of its filing requirements with the Commission. Pending the Committee's submission of a termination report, the Reviewing Officer recommended that the Commission take no further action and close the file.

On April 2, 2015, the Committee filed a Termination Report covering January 1 through March 31, 2015, and the Committee will now be eligible for termination once this matter is closed. Therefore, the Reviewing Officer recommends that the Commission take no further action and close the file.

OAR Recommendations

- 1) Take no further action in AF# 2867 that Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file; and
- 2) Send the appropriate letter.

UNCLASSIFIED



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2867

DATE SCANNED 8/7/15

SCANNER NO. 2

SCAN OPERATOR JB